LIBRARY
SUPREME COURT, U. S.

Office-Supreme Court, U.S.
FILED
FEB 22 1964
JOHN F. DAVIS, CLERK

No. 675

IN THE

Supreme Court of the United States

OCTOBER TERM, 1963

CRAWFORD MARTIN, as Secretary of State of the State of Texas, JOHN CONNALLY, as Governor of the State of Texas, WAGGONER CARR, as Attorney General of the State of Texas, and EUGENE LOCKE, as Chairman of the State Democratic Executive Committee of Texas,

Appellants,

v.

GEORGE H. W. BUSH, MRS. TOM M. THAWLEY, ROLAND E. SLEDGE, ANTHONY J. P. FARRIS AND BARBARA BARRETT,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION

APPELLEES' REPLY TO APPELLANTS' SUPPLEMENTAL BRIEFS

WILLIAM B. CASSIN
1600 Esperson Building
Houston, Texas 77002
THAD T. HUTCHESON
Tennessee Building
Houston, Texas 77002

Attorneys for Appellees,

GEORGE H. W. BUSH, MRS. TOM M. THAWLEY, ROLAND E. SLEDGE, ANTHONY J. P. FARRIS AND BARBARA BARRETT

PRINTED IN U.S.A. — BY DELAHUE/TEXAS

No. 675

In The

Supreme Court of the United States

October Term, 1963

Crawford Martin, as Secretary of State of the State of Texas, John Connally, as Governor of the State of Texas, Waggoner Carr, as Attorney General of the State of Texas, and Eugene Locke, as Chairman of the State Democratic Executive Committee of Texas,

Appellants,

v.

George H. W. Bush, Mrs. Tom M. Thawley, Roland E. Sledge, Anthony J. P. Farris and Barbara Barrett,

Appellees.

On Appeal from The United States District Court for the Southern District of Texas, Houston Division

APPELLEES' REPLY TO APPELLANTS' SUPPLEMENTAL BRIEFS

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

The supplemental briefs filed by appellants require appellees to emphasize three points:

I

Appellees urge the Court to affirm the judgment of the Court below at the earliest possible date. Appellants' indication (Brief of Appellants Martin, *et al.*, at page 5) that Appellees do not desire such relief at this time is based on a quotation lifted out of context and is totally incorrect.

II

There is still more than enough time for the elected officials of Texas to accommodate to the necessity of reapportionment or provide procedures for elections at large. Appellants' protests to the contrary point out numerous practical difficulties entailed in providing a *constitutional* plan for electing Texas' congressmen in 1964, but these difficulties do not even approach a showing that this supremely important task is impossible. These difficulties merely point up the fact that Appellants, *by virtue of their own delay and procrastination,* have made somewhat more onerous their task as public officials sworn to uphold the Constitution of the United States.

III

Appellants now concede that:

> "The growth and transition of Texas population has made congressional redistricting *imperative.*" (See Governor Connally's statement quoted in Mr. Locke's brief at page 10.) (Emphasis supplied.)

Such a firm statement obviously calls for action, but instead the Court, the Appellees and the people of Texas are met with a barrage of excuses. This reaction by our state officials is most unfortunate since the need for reapportionment is even more imperative than they seem to realize. This is so because Texas' congressional apportionment law was declared unconstitutional by a court of competent jurisdiction over four months ago and this declaration of unconstitutionality was based (a) on the same rationale adopted by this Court in *Wesberry* v. *Sanders*, No. 22. O.T. 1963, and (b) upon facts more compelling than those presented in the *Wesberry* case. Texas' present congressional apportionment statute is therefore (along with Georgia's), beyond salvation. Constitutionality cannot be breathed into these two statutes by equitable measures, nor can anything

be done to validate the tenure, reimbursement or attempted official actions of persons purportedly elected to Congress under these laws in the coming November elections.

This dire situation clearly requires an early affirmance of the judgment and decree of the court below in order that a constitutional plan for electing Texas' congressmen may be promptly put into effect.

Respectfully submitted,

.....

WILLIAM B. CASSIN
1600 Esperson Building
Houston, Texas 77002

.....

THAD T. HUTCHESON
Tennessee Building
Houston 2, Texas
THAD GRUNDY
Tennessee Building
Houston, Texas
CHARLES M. HADEN
Bank of the Southwest Building
Houston 2, Texas
ALFRED H. EBERT
Humble Building
Houston, Texas
G. SIDNEY BUCHANAN
First City National Bank Building
Houston, Texas
HART T. MANKIN
1939 West Gray
Houston, Texas

Attorneys for Appellees, George H. W. Bush, Mrs. Tom M. Thawley, Roland E. Sledge, Anthony J. P. Farris and Barbara Barrett.

PROOF OF SERVICE

I, WILLIAM B. CASSIN, one of the attorneys for Appellees herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that, on the 20th day of February, 1964, I served copies of the foregoing Brief on the several parties hereto by mailing copies in duly addressed envelopes, with first class postage prepaid, to their respective attorneys of record, as follows:

To HONORABLE WAGGONER CARR, Attorney General of the State of Texas, P. O. Drawer R., Capitol Station, Austin, Texas, 78711, attorney for Appellants, Crawford Martin, Secretary of State of the State of Texas, John Connally, Governor of the State of Texas, and Waggoner Carr, Attorney General of the State of Texas.

To WILL D. DAVIS, ESQ., Heath & Davis, 202 Perry Brooks Building, Austin 1, Texas and FRANK C. ERWIN, JR., ESQ., Brown, Sparks & Erwin, Brown Building Austin, Texas, attorneys for Appellant Eugene C. Locke, Chairman, State Democratic Executive Committee of the State of Texas.

To JOE RESWEBER, ESQ., County Attorney of Harris County, Texas, Attention Charles F. Mitchell, Esq., Assistant County Attorney, 202 Courthouse, Houston 2, Texas, attorneys for William M. Elliott, County Judge of Harris County, Texas, and Robert E. Turrentine, Jr., County Clerk of Harris County, Texas.

To PATRICK B. GIBBONS, III, ESQ., 1400 First National Bank Building, Dallas, Texas and ROBERT E. NEWEY, ESQ., Houston First Federal Building, Houston, Texas, attorneys for Peter O'Donnell, Jr., Chairman of the State Republican Executive Committee of Texas.

.....

WILLIAM B. CASSIN